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7 *Entertainment LLC*

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **OAKLAND DIVISION**

11
12 EPIC GAMES, INC.,

13 *Plaintiff, Counter-defendant,*

14 v.

15 APPLE INC.,

16 *Defendant, Counterclaimant.*
17

Case No. 4:20-cv-05640-YGR

**DECLARATION OF DON SECHLER
PURSUANT TO LOCAL RULE
79-5(e)(1) IN SUPPORT OF PLAINTIFF
EPIC GAMES, INC'S
ADMINISTRATIVE MOTION TO SEAL
DX-4133**

1 I, Don Sechler, declare as follows:

2 1. I am the Vice President and Global Head of Global Partner Development and
3 Relations Business Operations, Planning & Strategy at Sony Interactive Entertainment LLC
4 (“SIE”). I am more than eighteen years of age. Based on my experience with SIE, I am familiar
5 with SIE’s protection of its trade secrets and other confidential and proprietary business
6 information I discuss below. I make this declaration based on personal knowledge and, if called as
7 a witness, I could and would testify competently to the matters set forth herein.

8 2. I understand that plaintiff Epic Games, Inc. (“Epic”) notified SIE that it had
9 identified DX-4133 as a trial exhibit that contained SIE confidential information and that Epic
10 intends to file a motion to seal portions of DX-4133, which includes proposed redactions that SIE
11 has made to protect SIE’s confidential information. I make this declaration in support of that
12 motion. I note that one page of DX-4133, EPIC_00127931, was already redacted in the version
13 SIE was provided so I did not review that page.

14 3. DX-4133 (EPIC_00127929 through EPIC_00127944) is a document titled PS4
15 CROSS-PLAY DATA. It contains (i) specific, detailed financial data (including revenue and user
16 spend) and specific, detailed data reflecting user behavior associated with Epic’s Fortnite game on
17 the PlayStation platform, and (ii) analyses and conclusions that are derived directly from the
18 financial and user behavior data. This information is highly-confidential, competitively-sensitive
19 trade secret information and would potentially cause harm to SIE if publicly released.

20 4. The following pages contain detailed, specific data on revenue and other financial
21 metrics, as well as detailed, specific data on user behavior: EPIC_00127930, EPIC_00127932
22 through EPIC_00127937, EPIC_00127939, EPIC_00127940, EPIC_00127943, and
23 EPIC_00127944. EPIC_00127940 purports to reflect revenue shares and user behavior with
24 regard to mobile and PC users engaged in cross-platform gameplay with users on the PlayStation
25 platform but this data is based on SIE-confidential information and could be used to calculate
26 similar information about SIE.

27 5. In addition, analysis and conclusions derived from the financial and user behavior
28 data are found on EPIC_00127932, EPIC_00127934 through EPIC_00127937, EPIC_00127939,

1 EPIC_00127940, EPIC_00127943, and EPIC_00127944. But for access to the underlying
2 financial and user data, it would not be possible to analyze the data or reach the conclusions
3 contained therein.

4 6. SIE strictly restricts dissemination of this financial and user behavior data and takes
5 steps to preserve its confidentiality to protect its competitive position. SIE does not share this sort
6 of revenue and user behavior information with any third parties (other than the relevant game
7 partner itself), except as required by applicable law, because it is competitively sensitive. Specific
8 revenue figures and user behavior data relating to a particular game publisher's games on our
9 platform are shared only with that publisher because disclosure to a competitive platform or
10 developer would cause competitive harm. This policy is memorialized in a strict non-disclosure
11 agreement with Epic. The disclosure of this non-public revenue and user behavior data to other
12 game developers could adversely affect SIE in its negotiations with these developers by revealing
13 details of the financial performance and user behavior regarding competitive games on our
14 platform. In addition, disclosure of the information could provide an unwarranted advantage to
15 competitors, who could use it to better understand SIE's business insights, strategies and results
16 and to target its own strategies and priorities to take advantage of this information.

17 7. The proposed redactions are narrowly tailored to redact only SIE's competitively
18 sensitive financial data and user behavior information and the analysis and conclusions derived
19 directly therefrom.

20 8. I declare under the penalty of perjury that the foregoing is true and correct.
21 Executed on this 21st day of May, 2021.

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23 DON SECHLER
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